

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7368 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?
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KANUBHAI P CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7368 of 1990
MR SUNIL K SHAH for Petitioner No. 1
MR AMIT KOTAK, AGP for Respondent No. 1-2
NOTICE SERVED for Respondent No. 3
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CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 04/09/2002

ORAL JUDGEMENT

1. The petitioner has made a grievance that without
any rime or reason his service has been terminated by the
Secretary of respondent no. 3 orally. According to the

petitioner, he belongs to scheduled caste and as such he was afforded the employment in the reserve quota through the employment exchange. The record of the petition shows that he was initially provided employment on casual basis in the office of the Divisional Training Centre at Gandhinagar for a period of 4 months. Thereafter he was appointed again on temporary basis in the office of the office of the Director, Cottage Industries and Industrial Cooperation and Additional Registrar, Cooperative Societies with effect from 11th April, 1988. It was for a period upto 30th June, 1988. Subsequently vide office order dated 24th May, 1988 he was appointed on the post of Helper-cum-Peon. Lastly he was appointed in the pay-scale of Peon i.e. Rs.750-940 on 23rd June, 1990. However, his service was thereafter terminated by the Secretary of respondent no. 3 without issuing any order of termination. The petitioner's say is that he was orally intimated not to report for duty.

2. Mr. Sunil K. Shah, learned counsel for the petitioner has submitted that before terminating the service of the petitioner, no opportunity of hearing has been afforded to him despite the fact that he was employed through the Employment Exchange. He has further submitted that he was appointed by the Collector, but he has been removed by the order passed by the Secretary of respondent no. 3, who is an officer below the rank of Collector being the appointing authority. He has, therefore, submitted that considering the gross violation of principle of natural justice and also the fact that his service was terminated by the person lower in rank than the appointing authority, the said oral order of terminating his service was bad in law and it was required to be quashed and set aside.

3. On perusal of the record of the petition and in particular the orders of the appointment of the petitioner, it is very clear that he was appointed for a particular period purely on temporary basis, that the said appointment was subject to a condition that since the appointment was purely temporary, the service of the petitioner could be terminated by the respondents at any time without assigning any reason and without serving him with a notice.

3.1. Since the petitioner was appointed purely on temporary basis, the respondents were at liberty to terminate the same without assigning any reasons. It is not difficult to presume that the working of the petitioner would not have been satisfactory and in that view of the matter, the respondents were justified in

terminating his service. Since the appointment was temporary, there was no obligation on the part of the respondents to pass appropriate order assigning any reason for the termination of service. The respondents, in view of the conditions stipulated in the said order, were well within their bounds to do so. This is more so when no malafides or victimization has been alleged by the petitioner in the petition.

3.2. So far the second contention of Mr.Shah that the order has been passed by the person holding lower rank than the appointing authority is concerned, it does not have any merit inasmuch as it is some oral intimation that has been alleged to have been given by the Secretary of respondent no. 3. There is all the possibility that the Secretary might have simply conveyed the decision of his superior officer. In such circumstances, it cannot be said that the order has been passed by an authority lower in rank than the appointing authority. No other contention has been raised.

4. In view of the above, this petition does not have any merit and it is ordered to be dismissed. Rule discharged with no order as to costs.

[Akshay H. Mehta, J.]

* Pansala.